

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WISCONSIN

WAR N. MARION,

Plaintiff,

v.

ORDER

09-cv-723-bbc

JANEL NICKEL, DYLAN RADTKE,
CHAD KELLER and BENJAMIN NEUMAIER

Defendants.

As directed in the court's orders entered on May 3, 2011, plaintiff War Marion has submitted a copy of his trust fund account statement so that a determination may be made whether he is indigent for the purpose of proceeding on appeal in forma pauperis and if he is, what amounts must be assessed under the 1996 Prison Litigation Reform Act as initial partial payments of the fees for filing each of the two appeals in this case. In the May 3 orders, I found that plaintiff's appeals are not taken in bad faith and that plaintiff is not barred by the three strikes provision of 28 U.S.C. § 1915(g) from proceeding with his appeals in forma pauperis.

From plaintiff's trust fund account statement, I conclude that he qualifies for indigent

status. Further, I assess plaintiff an initial partial payment for each appeal in the amount of \$40.25.

If plaintiff does not have the money to make the initial partial appeal payments in his regular account, he will have to arrange with prison authorities to pay some or all of the assessments from his release account. The only amounts plaintiff must pay at this time are the two \$40.25 initial partial appeal payments. Before prison officials take any portion of those amounts from plaintiff's release account, they may first take from plaintiff's regular account whatever amount up to the full amount plaintiff owes. Plaintiff should show a copy of this order to prison officials to make sure that they are aware they should send plaintiff's initial partial appeal payments to this court.

ORDER

IT IS ORDERED that

1. That plaintiff War Marion's requests for leave to proceed in forma pauperis on appeal are GRANTED. Plaintiff is assessed \$40.25 as an initial partial payment of the \$455 fee for filing the notice of appeal, dkt. #136. He is to submit a check or money order made payable to the clerk of court in the amount of \$40.25 on or before June 6, 2011.
2. Plaintiff is assessed \$40.25 as an initial partial payment of the \$455 fee for

filing the notice of appeal, dkt. #137. He is to submit a check or money order made payable to the clerk of court in the amount of \$40.25 on or before June 6, 2011.

3. If, by June 3, 2011, plaintiff fails to pay either of the initial partial payments or explain his failure to do so, then I will advise the court of appeals of his noncompliance in paying the assessments so that it may take whatever steps it deems appropriate with respect to plaintiff's appeals.
4. Further, the clerk of court is requested to insure that the court's financial records reflect plaintiff's obligation to pay each of the \$40.25 initial partial payments and the remainder of the appellate filing fees in monthly installments.

Entered this 13th day of May, 2011.

BY THE COURT:

/s/

BARBARA B. CRABB

District Judge